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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/762,963

01/22/2004

Terri K. Taylor

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06/25/2009

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EXAMINER

RAMIREZ, JOHN FERNANDO

ART UNIT

PAPER NUMBER

3737

NOTIFICATION DATE

DELIVERY MODE

06/25/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

doctet@nutter.com

Office Action Summary

Application No.

10/762,963

Applicant(s)

TAYLOR ET AL.

Examiner

JOHN F. RAMIREZ

Art Unit

3737

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20, 22-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20, 22-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

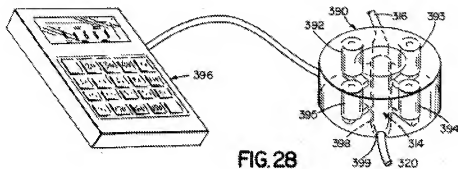
A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/18/09 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20, 22-30 and 32, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porat et al. (US 6,432,050) in view of Hakim et al. (4,595,390) of record.



In reference to claims 20 and 37, Porat et al. reference disclose an acoustic monitoring device (100) for verifying the pressure setting of a valve mechanism in an implantable device (see abstract, col. 15, lines 18-67, col. 16 lines 1-23, see figs. 10 and 11), comprising: a transmitter (114, 118) configured to generate an energy field sufficient to effect movement of the valve mechanism of the implantable device (see col. 16, lines 6-23); and an acoustic sensor (100) electronically coupled to the transmitter (118) for detecting acoustic signals, wherein the transmitter (114, 118) creates electrical power for energizing the sensors (see col. 15, lines 18-67, col. 16 lines 1-23, see figs. 10 and 11, col. 20, lines 3-51). However, Porat does not specifically disclose a transmitter having a plurality of electromagnetic coils. In the same field of endeavor, Hakim et al. teach an implantable shunt-valve in which the popping pressure is adjusted by applying an external magnetic field using an external device that is placed over the protrusion valve and includes electromagnets (see figs. 5 and 28; col.8, line 65 - col.9, line 34; col. 10, lines 14-68). Therefore, for a person of ordinary skill in the art, modifying the device disclosed by Porat et al., with the above discussed enhancements would have been considered obvious because such modifications would have provided

a simple, reliable and accurate technique for noninvasive adjustment of popping pressure.

In regards to claims 22-29, Porat et al. in Fig. 12, further disclose a housing (202 in fig. 12) having a top surface, a bottom surface, and a central opening (205) extending therethrough for containing the transmitter (214), further including a tubular coupling member (element 214 in fig. 11) extending through the central opening, wherein the tubular member is configured to contact a patient's skin (208, see col. 19, lines 15-40), wherein the acoustic sensor (212) is selectively disposed within the tubular coupling member as shown in Figure 12, wherein the acoustic sensor is electromagnetically isolated from the transmitter (see figure 13 and col. 19, lines 55-65), further including mechanical isolating pads surrounding the inner surface of the tubular coupling member (see figure 12), wherein the sensor (212) is seated on top of the tubular coupling member (see sensors mounted on the upper surface of tubular area 205), and including a digitizing filter, and a data storage unit for transmitting any detected acoustic signals to a programmer for analysis (see Fig. 10, see col. 19, lines 65 – col. 20, line 26).

With respect to claim 30, Hakim et al. illustrates in fig. 28 a plurality of feet extending from the bottom surface of the housing to focus the energy field on the valve mechanism (see also col. 10, lines 14-30).

Claims 31, 33-34, 36, and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porat et al. (US 6,432,050) in view of Hakim et al. (US 4,595,390) of record, in further view of Ericson et al. (US 6,533,733), and in further view of Greeninger et al. (US 6,082,367).

Porat et al. in view of Porat et al. teaches all the limitations of the claimed subject matter as claimed in claim 20 above, except for mentioning specifically, a power source for driving the energy field, further comprising means for wireless communication between the acoustic monitoring device and the programmer, wherein the means for wireless communication comprises a wireless communication transmitter connected to the transmitter of the acoustic monitoring device, wherein the device includes a microprocessor that translates any detected acoustic signals into information for determining the success or failure of the adjustment cycle, wherein the microprocessor classifies the acoustic signals into signals indicative of movements and signals indicative of positions, wherein the microprocessor compares the actual streams of acoustic signals to an expected stream of acoustic signals to determine the success or failure of the adjustment cycle. However, in the same field of endeavor, Ericson et al. teach an implantable device for cerebrospinal fluid pressure monitoring that can be coupled to existing fluid shunting systems that uses a wireless transmission (see abstract, col. 3, line 29 – col. 4 line 15), and receives power from an internal source (see Fig. 5; col. 4, lines 29-45). Moreover, Greeninger et al., teach an implantable medical device that uses a microprocessor that is programmed for different operating parameters, operating modes and capabilities of monitoring varieties of physiologic conditions and electrical signals (see abstract; col. 4, lines 31- col. 5, line 11;). Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to have modified the device disclosed by Porat et al., in light of the teachings of Ericson et al. and Greeninger et al., in order to provide a monitoring device with

programmable capabilities that would avoid the possibility of unrecognized signals of life-threatening conditions in the monitored patient.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN F. RAMIREZ whose telephone number is (571)272-8685. The examiner can normally be reached on (Mon-Fri) 7:00 - 3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRIAN CASLER/
Supervisory Patent Examiner, Art
Unit 3737

/J. F. R./

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Examiner, Art Unit 3737